

# Exhibit B

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**From:** Elsner, Mike <melsner@motleyrice.com>  
**Sent:** Wednesday, December 4, 2024 3:04 PM  
**To:** McGowan, Emily  
**Cc:** Laura Fitzpatrick; Goetz, Dan; PEC\_Optum; Unterreiner, Amanda; Optum Opioid Team; Migliori, Don; David R. Cohen; PEC-ESI-TEAM@simmonsfirm.com; Johan Conrod  
**Subject:** [REDACTED]  
**Attachments:** 2018.11.30. Dkt 1163 - Order re Personnel File Production.pdf; 2021.02.10 - SM Cohen Order re Defendants' Production of Personnel Files.pdf; 2021.01.28. Lanier Letter referenced by SM Cohen.pdf; [REDACTED]  
[REDACTED]

**EXTERNAL SENDER – Proceed with caution**

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Emily,

We are surprised by your objections. If Optum had objections to the request for [REDACTED] personnel file, it should have raised those objections immediately after our request on November 13<sup>th</sup>. It has been a long standing practice in the MDL that parties will produce personnel files for all current and former employee deponents. The initial ruling regarding the production of personnel files was in November of 2018 and is located at #1163, a copy is attached. The protocol was expanded by Special Master Cohen in 2021. A copy of a letter from Mark Lanier from 2021 is attached requesting an expansion of the protocol along with Special Master Cohen's ruling.

Please produce [REDACTED] personnel file at least three days (72 Hours) before [REDACTED] scheduled deposition on the December 10<sup>th</sup>. I have cc'd Special Master Cohen to this chain, given the narrow time frame.

As to your second point, there is no obligation under the Federal Rules to disclose impeachment documents in advance of a deposition. In addition, it has never been the practice in this MDL to disclose and produce all documents that a lawyer intends to use in a deposition.

Lastly, as requested, please find attached the Amended Notice of Deposition for [REDACTED] and an e-mail with the zoom link information for the deposition.

Thanks,

Mike

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**From:** McGowan, Emily <Emily.McGowan@alston.com>  
**Sent:** Wednesday, December 4, 2024 12:41 PM  
**To:** Elsner, Mike <melsner@motleyrice.com>  
**Cc:** Laura Fitzpatrick <lfitzpatrick@simmonsfirm.com>; Goetz, Dan <DGoetz@weismanlaw.com>; PEC\_Optum

<PEC\_OPTUM@LISTSERV.MOTLEYRICE.COM>; Unterreiner, Amanda <AUnterreiner@motleyrice.com>; Optum Opioid Team <Optum.Opioid.Team@alston.com>; Migliori, Don <dmigliori@motleyrice.com>

Subject: [REDACTED]

CAUTION:EXTERNAL

Mike,

We write regarding a few items in advance of next week's deposition of [REDACTED]

First, can you please confirm that you will provide an updated deposition notice for [REDACTED] deposition and a Zoom link for remote appearance? We expect remote attendees to be able to object and ask questions if necessary. Please confirm.

Second, in previous depositions in *Jefferson County*, issues arose where documents which were not produced to the party being deposed were then used as exhibits, resulting in an Order from the Special Master requiring production of those documents before the deposition. Please ensure that if you plan to use any third-party documents in upcoming depositions, including with [REDACTED] next week, that they have been reproduced to the PBM Defendants in Track 12 and that we have access to them. If they have not, please produce them as soon as possible before [REDACTED] deposition.

Third, please explain the basis for seeking [REDACTED] personnel file. For starters, the PEC has not served a request for production for these documents, and Special Master Cohen held just last week that "[n]o party is permitted to serve any additional discovery requests without leave of Court." But beyond that, there is no relevance to [REDACTED] personnel files to this litigation. Courts in the Sixth Circuit have consistently recognized the important privacy interests non-parties like [REDACTED] have in these records. See, e.g., *Dahmer v. W. Ky. Univ.*, 2019 WL 1781770 (W.D. Ky. April 22, 2019); *Miller v. Uchendu*, 2016 U.S. Dist. LEXIS 205281 (W.D. Tenn. Mar. 21, 2016). The same goes for any prior deposition transcripts. We have already reproduced any transcripts from the *Jefferson County* litigation. [REDACTED]

We're willing to meet and confer about these topics if helpful.

Thanks,

Emily

Emily C. McGowan

Partner

**ALSTON & BIRD**

1120 South Tryon Street - Suite 300

Charlotte, NC 28203-6818

+1 704 444 1027 (O)

+1 828 777 8662 (C)

[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)

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From: Elsner, Mike <[melsner@motleyrice.com](mailto:melsner@motleyrice.com)>

Sent: Wednesday, December 4, 2024 10:31 AM

To: McGowan, Emily <[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)>; Optum Opioid Team <[Optum.Opioid.Team@alston.com](mailto:Optum.Opioid.Team@alston.com)>

Cc: Laura Fitzpatrick <[lfitzpatrick@simmonsfirm.com](mailto:lfitzpatrick@simmonsfirm.com)>; Goetz, Dan <[DGoetz@weismanlaw.com](mailto:DGoetz@weismanlaw.com)>; PEC\_Optum

<[PEC\\_OPTUM@LISTSERV.MOTLEYRICE.COM](mailto:PEC_OPTUM@LISTSERV.MOTLEYRICE.COM)>; Unterreiner, Amanda <[AUnterreiner@motleyrice.com](mailto:AUnterreiner@motleyrice.com)>; Optum Opioid Team <[Optum.Opioid.Team@alston.com](mailto:Optum.Opioid.Team@alston.com)>; Migliori, Don <[dmigliori@motleyrice.com](mailto:dmigliori@motleyrice.com)>

Subject: [REDACTED]

**EXTERNAL SENDER – Proceed with caution**

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Emily,

I am just following up on this request for [REDACTED] personnel file and any prior deposition transcripts. As [REDACTED] deposition is less than a week away, please produce these materials as soon as possible. If Optum is taking the position that they will not be producing these materials, please let me know today so we can raise this issue with Special Master Cohen.

We request the same materials for [REDACTED]

Thanks,

Mike

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**From:** Elsner, Mike

**Sent:** Wednesday, November 13, 2024 5:28 PM

**To:** McGowan, Emily <[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)>

**Cc:** Laura Fitzpatrick <[lfitzpatrick@simmonsfirm.com](mailto:lfitzpatrick@simmonsfirm.com)>; Goetz, Dan <[DGoetz@weismanlaw.com](mailto:DGoetz@weismanlaw.com)>; PEC\_Optum <[PEC\\_OPTUM@LISTSERV.MOTLEYRICE.COM](mailto:PEC_OPTUM@LISTSERV.MOTLEYRICE.COM)>; Unterreiner, Amanda <[AUnterreiner@motleyrice.com](mailto:AUnterreiner@motleyrice.com)>; Optum Opioid Team <[Optum.Opioid.Team@alston.com](mailto:Optum.Opioid.Team@alston.com)>

**Subject:** [REDACTED]

Emily,

Please produce [REDACTED] personnel file. In addition, if [REDACTED] has previously been deposed, we request production of the deposition transcript(s) and exhibits.

Thanks,

Mike



**Michael Elsner** (he / him)  
Attorney at Law

28 Bridgeside Blvd., Mt. Pleasant, SC 29464  
o. 843.216.9250 f. 843.216.9450  
[melsner@motleyrice.com](mailto:melsner@motleyrice.com)

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**From:** Elsner, Mike

**Sent:** Wednesday, November 13, 2024 5:15 PM

**To:** McGowan, Emily <[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)>

**Cc:** Laura Fitzpatrick <[lfitzpatrick@simmonsfirm.com](mailto:lfitzpatrick@simmonsfirm.com)>; Goetz, Dan <[DGoetz@weismanlaw.com](mailto:DGoetz@weismanlaw.com)>; PEC\_Optum <[PEC\\_OPTUM@LISTSERV.MOTLEYRICE.COM](mailto:PEC_OPTUM@LISTSERV.MOTLEYRICE.COM)>; Unterreiner, Amanda <[AUnterreiner@motleyrice.com](mailto:AUnterreiner@motleyrice.com)>; Optum Opioid

Team <[Optum.Opioid.Team@alston.com](mailto:Optum.Opioid.Team@alston.com)>

Subject: [REDACTED]

Emily,

The PEC is available to depose [REDACTED] on December 10<sup>th</sup> [REDACTED]

Thanks,

Mike



**Michael Elsner** (he / him)  
Attorney at Law

28 Bridgeside Blvd., Mt. Pleasant, SC 29464  
o. 843.216.9250 f. 843.216.9450  
[melsner@motleyrice.com](mailto:melsner@motleyrice.com)

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From: McGowan, Emily <[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)>

Sent: Wednesday, November 13, 2024 1:10 PM

To: Elsner, Mike <[melsner@motleyrice.com](mailto:melsner@motleyrice.com)>

Cc: Laura Fitzpatrick <[lfitzpatrick@simmonsfirm.com](mailto:lfitzpatrick@simmonsfirm.com)>; Goetz, Dan <[DGoetz@weismanlaw.com](mailto:DGoetz@weismanlaw.com)>; PEC\_Optum <[PEC\\_OPTUM@LISTSERV.MOTLEYRICE.COM](mailto:PEC_OPTUM@LISTSERV.MOTLEYRICE.COM)>; Unterreiner, Amanda <[AUnterreiner@motleyrice.com](mailto:AUnterreiner@motleyrice.com)>; Optum Opioid Team <[Optum.Opioid.Team@alston.com](mailto:Optum.Opioid.Team@alston.com)>

Subject: [REDACTED]

CAUTION:EXTERNAL

Mike,

Is the PEC available to depose [REDACTED] on December 10? That date would work [REDACTED]

December 19 does not work [REDACTED] will circle back to you on that.

Thank you,

Emily

Emily C. McGowan  
Partner  
**ALSTON & BIRD**  
1120 South Tryon Street - Suite 300  
Charlotte, NC 28203-6818  
+1 704 444 1027 (O)  
+1 828 777 8662 (C)  
[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)



From: Elsner, Mike <[melsner@motleyrice.com](mailto:melsner@motleyrice.com)>  
Sent: Tuesday, November 12, 2024 10:02 AM  
To: McGowan, Emily <[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)>  
Cc: Laura Fitzpatrick <[lfitzpatrick@simmonsfirm.com](mailto:lfitzpatrick@simmonsfirm.com)>; Goetz, Dan <[DGoetz@weismanlaw.com](mailto:DGoetz@weismanlaw.com)>; PEC\_Optum <[PEC\\_OPTUM@LISTSERV.MOTLEYRICE.COM](mailto:PEC_OPTUM@LISTSERV.MOTLEYRICE.COM)>; Unterreiner, Amanda <[AUnterreiner@motleyrice.com](mailto:AUnterreiner@motleyrice.com)>; Optum Opioid Team <[Optum.Opioid.Team@alston.com](mailto:Optum.Opioid.Team@alston.com)>  
Subject: [REDACTED]

**EXTERNAL SENDER – Proceed with caution**

Emily,

The PEC is not available to depose [REDACTED] on December 10<sup>th</sup> or [REDACTED] on December 17<sup>th</sup>. We could depose [REDACTED] on December 19<sup>th</sup>. Please let us know if this date is workable for [REDACTED]. We are available to take [REDACTED] deposition on December 19<sup>th</sup>, 27<sup>th</sup> or 30<sup>th</sup>. Please let us know if these dates are workable.

We would also like to discuss dates and locations for the two 30b6 notices that we served. Do you have some suggests in early to mid-January?

Thanks,

Mike



**Michael Elsner** (he / him)  
Attorney at Law

28 Bridgeside Blvd., Mt. Pleasant, SC 29464  
o. 843.216.9250 f. 843.216.9450  
[melsner@motleyrice.com](mailto:melsner@motleyrice.com)

From: McGowan, Emily <[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)>  
Sent: Monday, November 11, 2024 10:22 AM  
To: Elsner, Mike <[melsner@motleyrice.com](mailto:melsner@motleyrice.com)>  
Cc: Laura Fitzpatrick <[lfitzpatrick@simmonsfirm.com](mailto:lfitzpatrick@simmonsfirm.com)>; Goetz, Dan <[DGoetz@weismanlaw.com](mailto:DGoetz@weismanlaw.com)>; PEC\_Optum <[PEC\\_OPTUM@LISTSERV.MOTLEYRICE.COM](mailto:PEC_OPTUM@LISTSERV.MOTLEYRICE.COM)>; Unterreiner, Amanda <[AUnterreiner@motleyrice.com](mailto:AUnterreiner@motleyrice.com)>; Optum Opioid Team <[Optum.Opioid.Team@alston.com](mailto:Optum.Opioid.Team@alston.com)>  
Subject: [REDACTED]

**CAUTION:EXTERNAL**

Mike,

We received the deposition notices for [REDACTED]. We have been working with our clients to confirm availability. Here is what we can offer:

[REDACTED] is available on December 10. [REDACTED]

[REDACTED] We can confirm location in the next few weeks.

[REDACTED] is available on December 17. [REDACTED]

[REDACTED] We can confirm location in the next few weeks.

Please let us know as soon as possible if these dates work—we are holding them.

Thank you,

Emily

Emily C. McGowan

Partner

**ALSTON & BIRD**

1120 South Tryon Street - Suite 300

Charlotte, NC 28203-6818

+1 704 444 1027 (O)

+1 828 777 8662 (C)

[Emily.McGowan@alston.com](mailto:Emily.McGowan@alston.com)

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**From:** Unterreiner, Amanda <[AUnterreiner@motleyrice.com](mailto:AUnterreiner@motleyrice.com)>

**Sent:** Wednesday, November 6, 2024 5:56 PM

**To:** Optum Opioid Team <[Optum.Opioid.Team@alston.com](mailto:Optum.Opioid.Team@alston.com)>

**Cc:** Elsner, Mike <[melsner@motleyrice.com](mailto:melsner@motleyrice.com)>; Laura Fitzpatrick <[lfitzpatrick@simmonsfirm.com](mailto:lfitzpatrick@simmonsfirm.com)>; Goetz, Dan <[DGoetz@weismanlaw.com](mailto:DGoetz@weismanlaw.com)>; PEC\_Optum <[PEC\\_OPTUM@LISTSERV.MOTLEYRICE.COM](mailto:PEC_OPTUM@LISTSERV.MOTLEYRICE.COM)>

**Subject:** [REDACTED]

**EXTERNAL SENDER – Proceed with caution**

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Dear Counsel:

Attached please Deposition Notices for [REDACTED]

Have a good night,

Amanda



**Amanda L. Unterreiner**  
Paralegal

28 Bridgeside Blvd., Mt. Pleasant, SC 29464  
o. 843.216.9210  
[AUnterreiner@motleyrice.com](mailto:AUnterreiner@motleyrice.com)

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